



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240



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PEP - ENVIRONMENTAL REVIEW MEMORANDUM NO. ERM04-4

To: Heads of Bureaus and Offices

From: Willie R. Taylor, Director *Willie R. Taylor*
Office of Environmental Policy and Compliance

Subject: Guidance on Referrals to CEQ of Proposed Federal Actions Found to be Environmentally Unsatisfactory

This memorandum supplements 516 DM 7.7C. Summary comments on draft environmental statements prepared pursuant to 516 DM 7.7C(2) shall, when appropriate, include early notification of the intention to refer a proposal the Council.

A bureau referring an action to CEQ as unsatisfactory should, by the time the referral is made, have a fully documented history and record of all attempts to coordinate and negotiate with the concerned agency and should make this background available with the referral request to OEPC.

Bureaus attempting to refer an action solely on the basis of an inadequate EIS should recognize that such basis alone may not pass the criteria for a referral set forth in Section 1504.2 of the CEQ Regulations. Further, bureaus must also decide if the criteria for referral are met at the headquarters level since bureaus may have more than one potential referral and may have to select one resource issue for referral over another [see 516 DM 7.7C(1)].

A referring agency has twenty-five days from the date the notice of availability of a final statement appears in the Federal Register to deliver its referral to the Council unless an extension has been granted by the lead agency. Accordingly, the OEPC will give priority to distributing copies of other agencies' final environmental statements. Bureaus and offices shall establish and maintain screening procedures at the headquarters level to ensure expedited review of potentially unsatisfactory proposals.

Upon review, if a bureau or office proposes to refer an environmentally unsatisfactory proposal to the Council, it shall draft a proposed referral and transmit it by signature of the bureau director simultaneously to the OEPC and the bureau's assistant secretary.

The originating bureau or office should provide early notification and an advance copy of the proposed referral to the OEPC so that the interests of other reviewing bureaus can be

immediately canvassed.

In consultation with the involved assistant secretary and bureaus, the OEPC shall recommend and the Assistant Secretary--Policy, Management and Budget shall determine whether or not to refer the proposal to the Council.

Documentation of this decision must be made as soon as possible and placed in the appropriate project file. This phase of the process is generally conducted through one or more briefings by a bureau field team so that Departmental management is collectively informed as soon as possible. Bureau environmental managers shall arrange all appropriate briefings.

Upon a determination to refer, the bureau proposing the referral shall immediately finalize the referral and forward it through channels for the Secretary's personal signature.

Upon a determination not to refer, the OEPC shall document the countervailing reasons for the record.

Any subsequent meetings with the Council or lead agency will be coordinated with the OEPC.

This memorandum replaces ERM94-3.